

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NORMAN CRONEY,

Plaintiff,

-v-

9:23-CV-1188

D. RUSSELL; D. MYATT,

Defendants.

APPEARANCES:

OF COUNSEL:

Norman Croney
Plaintiff, *Pro Se*
16-A-01510
Sing Sing Correctional Facility
354 Hunter Street
Ossining, New York 10562

Attorney General for the
State of New York
The Capitol
Albany, New York 12224
Attorney for Defendants

CHI-HSIN E. ENGELHART, ESQ.
Assistant Attorney General

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On September 18, 2023, plaintiff Norman Croney (“plaintiff”), acting *pro se*, commenced a two-count action against D. Russell and D. Myatt

(collectively, “defendants”), pursuant to 42 U.S.C. § 1983, for (1) use of excessive force in violation of the Eighth Amendment; (2) retaliation in violation of the First Amendment; (3) mail tampering claims in violation of the First Amendment; and (4) invasion of privacy claims in violation of the Fourth Amendment. Dkt. No. 1. That same day, plaintiff filed an application to proceed *in forma pauperis* (“IFP Application”). Dkt. No. 4. On October 6, 2023, this Court granted plaintiff’s IFP application and conducted an initial *sua sponte* review of plaintiff’s complaint, after which plaintiff’s excessive force, retaliation, and invasion of privacy claims were permitted to proceed while all other claims were dismissed without prejudice. Dkt. No. 4.

On June 10, 2024, plaintiff moved for summary judgment pursuant to Federal Rule of Civil Procedure (“Rule”) 56. Dkt. No. 37. Defendants opposed the motion. Dkt. No. 39. After the parties’ submissions, U.S. Magistrate Judge Paul J. Evangelista advised by Report & Recommendation (“R&R”) that plaintiff’s motion should be denied without prejudice.¹ Dkt. No. 50.

Plaintiff has not lodged objections and the time period in which to do so has expired. Instead, plaintiff has filed an additional motion for summary judgment. Dkt. No. 51. Plaintiff’s second motion for summary judgment

¹ Judge Evangelista advised that plaintiff’s motion could be renewed upon the completion of discovery. Dkt. No. 50 at 9.

presented advances no new arguments and remains premature and deficient for the reasons described in Judge Evangelista's R&R. *Compare* Dkt. No. 51, with Dkt. No. 37; Dkt. No. 50. Therefore, plaintiff's subsequent motion for summary judgment, Dkt. No. 51, will be denied for the same reasons set forth in Judge Evangelista's R&R. Plaintiff may renew his motion for summary judgment upon the completion of discovery. Plaintiff is reminded that his motion must conform to the Local Rules.

Upon review for clear error, Judge Evangelista's R&R will be adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

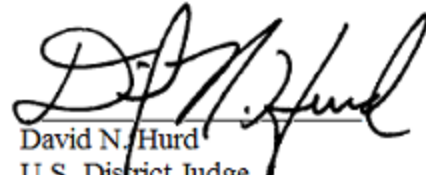
ORDERED that

1. The Report & Recommendation (Dkt. No. 50) is ACCEPTED;
2. Plaintiff's motion for summary judgment (Dkt. No. 37) is DENIED without prejudice, and with opportunity to renew upon completion of discovery; and

3. Plaintiff's second motion for summary judgment (Dkt. No. 51) is DENIED;

The Clerk of the Court is directed to terminate the pending motions.

IT IS SO ORDERED.



David N. Hurd
U.S. District Judge

Dated: March 19, 2025
Utica, New York.